

**Statement
of the
National Air Transportation Association
before the
Subcommittee on Aviation,
Committee on Transportation and Infrastructure,
U.S. House of Representatives:**

**Reauthorization of the Federal Aviation
Administration and the Aviation Programs**

April 9, 2003

Washington, DC

**Appearing for NATA:
James K. Coyne, President**

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to appear before you to discuss legislation to reauthorize the Federal Aviation Administration. My name is James K. Coyne and I am president of the National Air Transportation Association (NATA). NATA, the voice of aviation business, is the public policy group representing the interests of aviation businesses before the Congress, federal agencies and state governments. NATA's 2,000 member companies own, operate and service aircraft and provide for the needs of the traveling public by offering services and products to aircraft operators and others such as fuel sales, aircraft maintenance, parts sales, storage, rental, airline servicing, flight training, Part 135 on-demand air charter, fractional aircraft program management and scheduled commuter operations in smaller aircraft. NATA members are a vital link in the aviation industry providing services to the general public, airlines, general aviation, and the military.

Aviation Security – A Status Report

As you and your colleagues are well aware, much has happened in and to the aviation industry since the last measure reauthorizing the FAA's many programs. The terrorist attacks of September 2001 have resulted in the greatest challenges ever posed in the 100-year history of powered aviation. Many of these challenges have been met and have resulted in a more secure industry. However, many more challenges have yet to be resolved and, unfortunately, are the result of a sometimes well-meaning government agency taking a specific action without a full understanding of the consequences or without presenting alternatives to industry.

After the September 11th terrorist attacks, NATA and other industry groups came to Congress seeking, above all, the ability to work with the various agencies of the federal government that are responsible for ensuring aviation security. At that time, much of the general aviation fleet remained grounded, as a result of airspace restrictions or airport closures. Economic

losses were mounting, as were frustration levels. Since then, and with the help of this Subcommittee, many of those restrictions have been lifted. Yet, in the current environment – war in Iraq and an elevated terrorist threat level – restrictions still remain, especially in the Washington and New York metropolitan areas. For the majority of the general aviation industry, these restrictions pose a relatively simple operational consideration. For others – banner towing operations, electronic newsgathering, aeromedical flights and private and commercial operators of simpler aircraft – the restrictions threaten their very existence.

The problem, simply stated, is that the federal government insists on imposing blanket restrictions on all types of non-scheduled (i.e., non-airline) flight operations. No aviation restriction the federal government has implemented since September 2001 considers the ability or willingness of operators to comply with specified, reasonable requirements to ensure the security of that operation. This is especially ironic since the Aviation and Transportation Security Act (ATSA) included a provision directing the Transportation Security Administration to develop regulations implementing security programs for non-scheduled commercial air carriers. These regulations, popularly known as the “Twelve-Five” and the “Private Charter” rules, became effective eight days ago on April 1 and establish state-of-the-art protocols for non-scheduled commercial air carriers to enhance an already soundly secure process. To date, however, operators have yet to realize any benefit from their extensive – and expensive – compliance efforts. Put simply, even though these operators have in place a government-approved security program equivalent to that employed by scheduled commercial air carriers, the federal government still treats all non-scheduled operators alike and bans them from certain airspace or grounds them altogether on the slimmest of suspicions that someone, somewhere could possibly use an aircraft to

commit a terrorist act. This “one-size-fits-all” treatment of non-scheduled commercial air carriers as threats to national security must end.

One of the most egregious examples of this treatment is just across the Potomac River, where all aircraft operations – except those of a handful of scheduled airlines – are still banned from Ronald Reagan Washington National Airport. Aside from the economic impact on the local area; aside from the severe harm being done to the fixed-base operator there; aside from the limitations on access to the National Capital Region from small communities throughout the U.S. which lack any other form of commercial air carrier service, the current ban is a result of the federal government’s outright refusal to develop and implement reasonable security procedures allowing these operations to resume.

Changing this unacceptable status quo is the subject of a petition NATA recently filed with the FAA. Our petition simply seeks a rulemaking effort at the FAA – based on the TSA’s existing security rules – resulting in a set of regulations allowing non-scheduled commercial air carriers to access Ronald Reagan Washington National Airport using restrictions, procedures and practices equivalent to those employed for scheduled air carriers. Many of you on this panel as well as other Members of Congress have expressed their strong support of this petition and we thank you for that backing. With your help, we are optimistic that our simple request for a rulemaking leading to at least the restoration of non-scheduled commercial air carrier access to this very important airport will be implemented in the very near future.

Chicago’s Meigs Field

Before moving to specific recommendations regarding FAA reauthorization, I must comment on the destruction of the sole runway at Meigs Field in Chicago. As you know, the City of Chicago, which owns the airport, sent heavy equipment to Meigs Field late in the evening of

March 30 and, by the early morning on March 31, had carved huge gashes in the runway pavement. This unconscionable action – carried out with no advance warning to the FAA, to the operators whose aircraft were stranded there, to the businesses or their employees based there or to the citizens of the city served by the airport – was performed in the name of national security.

For years, as this panel knows well, Chicago Mayor Daley quite properly has used the political process in his attempts to close Meigs Field. In response, Congress has supported keeping the airport open, the FAA has supported keeping the airport open – virtually everyone except the Mayor has supported keeping the airport open. Ultimately, what he could not achieve through normal channels he has achieved by hiding behind the curtain of “national security.” The problem is that there was no credible threat of terrorism against the City of Chicago from an aircraft capable of using Meigs Field. In fact, Daley himself acknowledged that no threat exists; yet he used terrorism fears to justify his actions.

The ramifications of this sad episode goes far beyond the shores of Lake Michigan. In the aftermath of Meigs’ closure, any community with the mere whim to close their local airport can do so and point to Chicago as their justification. Without swift and strong condemnation by the FAA and others within the federal government, Mayor Daley’s actions will be known as the beginning of the end for this nation’s highly developed air transportation system. The result will be an environment that will allow local authorities, at their convenience, to completely disrupt the flow of interstate air commerce.

That the destruction of Meigs Field was done in the name of “national security” should also set ringing this panel’s alarm bells. This could well be the first in a long line of state and local government actions designed only to meet a single agenda while ignoring the aviation infrastructure needs of the nation as a whole. Most importantly, this action will actually place the

residents of Chicago in greater danger since Meigs Field was an ideal staging area for helicopters and other relief aircraft in the event of a real – not imagined – terrorist act in Chicago.

For many years, the aviation industry has decried the loss of smaller, local airports and the increased congestion, noise and safety issues at the surviving nearby facilities. We have often appealed to the FAA and to this panel to enact and enforce strong legislation recognizing the critical role airports play in sustaining our national economy, in promoting local economic growth and in supporting law enforcement and the first responders responsible for ensuring our national security.

The time for the federal government to act probably has passed for Meigs Field. If Mayor Daley accomplishes nothing else through his cowardly actions, we urge you and your colleagues to use the lesson of Meigs Field to enact strong legislation protecting embattled community airports from destruction, closure or unreasonable restriction, whether in the false name of national security or for other reasons. We stand ready to work with you and your colleagues to achieve what I know are mutual goals.

Reauthorizing The FAA

Introduction

If for no other reason than formally recognizing the 100th anniversary of powered flight, enacting legislation to reauthorize the FAA is an important task for the Congress to accomplish this year. Given the ongoing challenges facing the agency and the industry it regulates, the content of this legislation takes on a much greater urgency than would otherwise be the case. As such, the NATA is optimistic that a streamlined, non-controversial measure may be presented to the President well in advance of the current authorization's expiration on September 30.

The importance of this effort notwithstanding, there are several key decisions this panel and Congress as a whole must make. We are pleased to offer the following comments for your consideration, based on the Administration's proposed bill.

Funding Levels

On the whole, NATA believes the proposed funding levels for the FAA's various programs, as outlined in the table below, will be adequate to ensure the continued growth – both in absolute numbers and in improved safety – of the aviation industry during the life of this measure. However, we are extremely concerned that the proposed funding levels for the Airport Improvement Program (AIP) are inadequate and will not keep pace with the demand. Equally, we believe the contribution from the Airport and Airway Trust Fund is too high.

Account	FY 2004	FY 2005	FY 2006	FY 2007
Salaries, Operations & Maintenance	7,591,000,000	7,732,000,000	7,889,000,000	8,064,000,000
(Airport & Airway Trust Fund Contribution)	(6,000,000,000)	(6,112,000,000)	(6,236,000,000)	(6,374,000,000)
(General Fund Contribution)	(1,591,000,000)	(1,620,000,000)	(1,653,000,000)	(1,690,000,000)
Air Navigation Facilities & Equipment (AATF)	2,916,000,000	2,971,000,000	3,031,000,000	3,098,000,000
Research, Engineering & Development (AATF)	100,000,000	102,000,000	104,000,000	107,000,000
Airport Planning & Development (AATF)	3,400,000,000	3,400,000,000	3,400,000,000	3,400,000,000

As noted with respect to Meigs Field and as we have testified to before this panel in years past, the availability of well-equipped, safe airports capable of handling a wide range of aircraft is critical to both the national economy and to the local economies of the communities these facilities

serve. Now, more than ever, such an airport is also critical to this nation's security. A constant funding level of merely \$3.4 billion in each of the proposed bill's four years is clearly inadequate to fund these critical facilities for all users. Instead, we would urge the Subcommittee to provide significant annual increases in funding for the AIP account to ensure that the critical needs of all airports – large and small – are adequately met.

While the AIP would be funded at too low a level in the out years, the proposed contribution from the trust fund – at 79% over the four-year bill – is much too high. As this panel is well aware, the Airport and Airway Trust Fund has always been considered as a source of funding for capital improvements to the national air transportation system, not a bank account to pay the administrative expenses of the FAA. Only in recent years has the agency been allowed to defray its costs by using trust fund monies.

NATA suggests that, at most, a 50-50 split between general fund and trust fund be employed to help fund the agency's administrative expenses. Additionally, we are concerned with the proposed "draw-down" of the trust fund's uncommitted balance to a paltry \$1.1 billion at the end of the four years. Such a plan fails to account for both the real needs in the AIP as well as reduced revenues flowing into the trust fund in the event of an even sharper downturn in the nation's economy.

Finally, we urge retention of the historic provisions in AIR-21 that provide incentives to the administration and to appropriators to fully fund the FAA and its programs at the desired levels. As the excellent results obtained under AIR-21 have shown, using the trust fund as intended – over time – will mean real, measurable improvements in safety, capacity and utility for all users of the national airspace system.

FAA Slot Rules Authority

We are concerned that the administration's proposal could mean the end of access to airports operated under the High Density Traffic Airports rule found in 14 CFR 93 for non-scheduled operators. The administration's analysis of its proposed legislation includes the following passage:

While the amendment would permit the agency to consider the full range of available demand management options, it does not itself reinstate the High Density Rule or otherwise automatically preserve the status quo. For example, to consider the available options the FAA has issued a notice requesting public comment on several demand management alternatives at LaGuardia Airport, including both administrative and market-based approaches.

While NATA favors market-based approaches to managing scarce resources, the resource of arrival and departure slots at JFK and LaGuardia are not scarce. Instead, we view this proposal with alarm and believe that the provisions in AIR-21 allowing the slots at these facilities to be phased out should remain untouched.

Cost-sharing

AIR-21 included a provision – dubbed "cost-sharing" – which allowed the private sector to contribute to the funding of air traffic facilities and equipment normally reserved to the responsibility of government. This provision, although limited to only 10 projects by that measure, has worked well and should be expanded as the administration has proposed. Doing so would allow businesses to work in partnership with state and local governments to ensure that critical infrastructure needs could be met – or met more quickly – than under current funding schemes.

Airport Privatization

Aviation businesses located at airports undergoing privatization must be safeguarded from the adverse financial effects of escalating rates and charges imposed by the new ownership. The

FAA must ensure that all privatization efforts do not jeopardize the investments of existing aviation businesses. The association is very concerned that within their reauthorization proposal the FAA eliminates 14 CFR Part 135 on-demand air taxi operators from the definition of “air carrier” and thereby eliminates their right to voice support or opposition to a privatization attempt. No justification for this change was provided by the administration.

It is imperative that aviation businesses conducting Part 135 operations be involved in the process of approving privatization efforts at the airports they serve as they will be directly impacted by the outcome. Therefore, the association strongly encourages the continuation of Part 135 on-demand air taxi operators within the definition of an “air carrier.” We stand ready to assist in the resolution of any specific concerns or problems that may have led to this requested change.

Low Emission Airport Vehicles And Ground Support Equipment

We noted the inclusion of language in the FAA’s reauthorization proposal supporting the use of PFC funds for the development of the needed infrastructure to utilize low emission ground support equipment, also known as GSE. The Administration also proposed a pilot project at up to ten airports for the purchase of low emission GSE. We support these provisions but strongly suggest that consideration be given to allowing private companies to participate in these projects. Our members, particularly those involved in providing services to scheduled air carriers, operate a significant number of GSE. We believe it is appropriate to include them in the proposal in order to achieve the maximum environmental benefit.

Suggested FAA Policy Directives

General Aviation Relief

While this Subcommittee and full Committee have been extraordinary in their support of financial assistance to those businesses suffering severe economic hardships because of airspace

restrictions preventing them from operating, Congress has still not successfully passed such legislation. The association is currently crafting language that, unlike previous legislation that was retroactive in terms of businesses recovering financial losses, would be prospective. The language would require the federal government to provide financial assistance to businesses prevented from operating as a result of airspace restrictions as well as weekly updates on these restrictions to this panel and to its Senate counterpart. While we still strongly support legislative initiatives allowing general aviation businesses to recoup direct losses as a result of the September 11th terrorist attacks, we must also plan for future restrictions that could be imposed should another event result in airspace and operational restrictions. We encourage this panel to adopt this language to ensure that these businesses do not endure additional financial suffering.

Re-Opening of DCA to Non-Scheduled Commercial Operations

As stated earlier in my testimony, all larger non-scheduled commercial operators now have in place security programs equivalent to those for the scheduled air carriers. It is imperative that this class of commercial operator be allowed back into Ronald Reagan Washington National Airport immediately. This action would also ease the heavy financial burdens that the businesses at DCA and the tourism industry in and around the Washington, D.C. metropolitan area have borne for the last 20 months.

Part 135 On-demand Air Taxi Regulations

The FAA will soon begin a multi-year process to examine its existing regulations governing the operation of non-scheduled commercial air carriers, often known as on-demand air taxis. This body of regulation dates from the 1960s and last saw major revision in 1980. NATA expects to play a major, cooperative role in the FAA's effort but we are troubled by the

preconceptions of some that the result of this process will be the collapsing of Federal Aviation Regulations Part 135 into Part 121, the latter of which basically governs the large scheduled airlines. When considering the small communities in rural areas served by Part 135 operators and that the aircraft types and operational missions are substantially different from the airlines, we believe that the regulatory framework of Part 135 has stood the test of time.

Also of significant import and further distinguishing on-demand Part 135 operators from the airlines is that the overwhelming majority of on-demand operators are small business as defined by the Small Business Administration. A substantial number of all Part 135 on-demand air taxis are the smallest of small business, having fewer than 20 employees. Forcing these unique operations into the same regulations of the airlines would not simplify the FAA's role nor would it be a service to the aviation industry or result in improved safety.

Therefore, to ensure that the existing regulatory framework is preserved, we urge this panel to consider adopting language that seeks to maintain FAR Part 135 separate from FAR 121 in order to protect and preserve the small businesses comprising the industry as well as its unique operational aspects and diversity.

War Risk Insurance Coverage

The September 2001 terrorist attacks saw sharp hikes in the costs for or cancellations of war risk insurance. Recognizing this, Congress included within the Air Transportation Safety And System Stabilization Act a provision extending this coverage both to air carriers and, by allowing the airlines to indemnify their vendors for this risk, to aviation service providers. However, as an NATA member recently testified to this panel, in addition to those operations directly related to servicing air carriers, these critical vendors face significant exposure for other activities at the airport. A low level of coverage is commercially available, approximately \$50 million per year

aggregate, but the premiums are prohibitively expensive. Given the potential significant losses from an event, this level of coverage is of little value.

We urge this panel to ensure that any war risk insurance coverage extended to air carriers also be expanded to provide coverage for airline service vendors.

Banner-towing Restrictions

As you know, and despite the fact that this type of policy-based legislation is the purview of this panel and not the appropriators, the FY 2003 Consolidated Appropriations Resolution (P.L. 108-7) included a provision banning banner-towing flight operations in the vicinity of major professional and collegiate sporting events for reasons of national security. This provision is not the first – nor will it likely be the last – time that commercial interests have hidden behind the curtain of “national security” and implemented competition-based restrictions.

Unfortunately, this provision will do nothing to enhance national security. In fact, by doing economic damage to hundreds of banner-towing operations throughout the U.S., it could bring real harm to this country’s economic security. At its core, this restriction expresses a belief that there are no measures whatsoever a banner-towing operator can meet that would satisfy security concerns. If there are ways in which airlines and agricultural operations can meet a minimum security level, then certainly there is a way for banner-towers to adopt procedures to satisfy security concerns.

Accordingly, we encourage this panel to adopt a provision repealing Section 352 of the Consolidated Appropriations Resolution for Fiscal Year (FY) 2003 and restoring the rights of banner-towing operators to make a living. If credible information is discovered that identifies banner-towing operators as a threat to national security, such concerns can be met in a number of ways without having to resort to an outright ban.

Domestic Reduced Vertical Separation Minima (DRVSM)

In June 2002 the FAA formally announced its intention to implement RVSM in domestic U.S. airspace via a Notice of Proposed Rulemaking (NPRM). RVSM is the process by which aircraft separation minimums are reduced to 1,000 feet vertically from the current 2,000 foot standard. The FAA is seeking DRVSM primarily as a measure to improve air traffic capacity. NATA and others have openly questioned the real world benefits of increase airspace capacity without equally proportionate runway capacity increases.

The primary beneficiary of DRVSM is unquestionably the major airlines who hope to save millions of dollars in fuel costs by packing more aircraft into the most fuel efficient altitudes.

Unfortunately, these savings for the airlines will be borne at the expense of small businesses nationwide. In formal comments to the FAA, NATA cited the agency's failure to analyze the economic impact on anyone except the airlines even though every aircraft operated in the DRVSM airspace will require expensive equipment upgrades and testing. The FAA's economic analysis shows that only two small businesses, which happen to be small airlines, will be impacted by a domestic RVSM requirement.

Not a single on-demand air taxi small business (of which there are thousands operating in affected airspace) nor a single private aircraft operated as a corporate aircraft for a small business was considered by the FAA in their economic and small business impact analyses.

Furthermore, NATA understands the FAA intends to require DRVSM no later than January 2005. This would leave thousands of small businesses less than two years to comply with a mandate which could cost them millions to implement.

We encourage Congress to closely monitor the FAA's handling and justification of this regulation to determine that the agency has accurately accounted for the full costs of compliance for America's small business and to ensure they are provided sufficient time to adopt any measures.

Condemning Action at Meigs Field

As stated earlier in my testimony, Congress must act in condemning the action taken by Chicago Mayor Daley in destroying Meigs Field late last month. At the minimum, a "Sense of Congress" provision should be adopted to ensure that such actions taken by the Mayor are recognized as being unethical, unconscionable and illegal. In addition, this panel must address this matter so that the Mayor's actions do not establish a precedent for similar future actions at other airports throughout this country.

Conclusion

This year, Congress has the unique opportunity to both reauthorize the FAA and its programs while also commemorating the 100th anniversary of powered flight. This opportunity comes at a time when – more than ever – the future viability and vitality of all segments of the aviation industry cannot be assured. That this uncertainty most often results from actions of the federal government – with a local government or two doing their best to make things even more challenging – argues for Congress to step in to recognize and minimize the impact. As always, the National Air Transportation Association stands ready to assist you in this task.

Thank you again for the opportunity to come before you today. I am happy to respond to any questions or comments.